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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,039	02/26/2004	Gary P. Mousseau	30889-2005	2929
33721	7590	11/22/2005	EXAMINER	
TORYS LLP 79 WELLINGTON ST. WEST SUITE 3000 TORONTO, ON M5K 1N2 CANADA			IWUCHUKWU, EMEKA DERRICK	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/786,039	MOUSSEAU, GARY P.	
	Examiner	Art Unit	
	Emeka D. Iwuchukwu	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/18/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 11/18/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4,6,9-14,17&18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cannon et al. U.S. Patent No. 6,393,272 (hereinafter Cannon).

With respect to claim 1, Cannon teaches an electronic device (105, Fig 1) comprising: a microcomputer (109, Fig 1) for processing an event (Col 3 Lines 57-60) and receiving a live communication (Col 3 Lines 57-60), such that when said communication is received during said event a determination is made as to whether to accept said live communication based on at least one criterion associated with said event (Col 3 Line 52 – Col 4 Line 2). If the meeting is at an important point the call is not accepted.

With respect to claim 2, Cannon teaches the device of claim 1 wherein if said live communication is not accepted then said communication is directed to a message application (Col 3 Lines 57-59).

With respect to claim 3, Cannon teaches the device of claim 1 wherein said live communication is selected from the group consisting of a telephone call and a push-to-talk call (Col 3 Lines 57-59).

With respect to claim 4, Cannon teaches the device of claim 2 wherein said message application is a voicemail application (Col 3 Lines 57-59).

With respect to claim 6, Cannon teaches the device of claim 1 wherein said determination is additionally based on at least one criterion that is associated with said live communication (Col 3 Line 52 – Col 4 Line 2).

With respect to claim 9, Cannon teaches an electronic device of claim 1 wherein said device is selected from the group consisting of a cell phone, a smart telephone, a desktop computer or a laptop having telephony equipment, a personal digital assistant with cell phone features, and a personal digital assistant with broadband communications (Col 2 Lines 13-15).

With respect to claim 10, Cannon teaches a method for modifying behavior of an electronic device comprising the steps of: performing an event (Col 3 Lines 57-60); receiving a live communication (Col 3 Lines 57-60); and determining whether to accept said live communication based on at least one criterion associated with said event (Col 3 Line 52 – Col 4 Line 2).

With respect to claim 11, Cannon teaches the method of claim 10 wherein if said live communication is not accepted then said communication is directed to a message application (Col 3 Lines 57-59).

With respect to claim 12, Cannon teaches the method of claim 10 wherein said live communication is a telephone call (Col 3 Lines 57-59).

With respect to claim 13, Cannon teaches the method of claim 11 wherein said message application is a voicemail application (Col 3 Lines 57-59).

With respect to claim 14, Cannon teaches the method of claim 13 wherein said determining step is additionally based on at least one criterion that is associated with said live communication (Col 3 Line 52 – Col 4 Line 2).

With respect to claim 17, Cannon teaches a method for modifying behavior of an electronic device comprising the steps of: performing an event (Col 3 Lines 57-60); receiving a live communication (Col 3 Lines 57-60); and using at least one criterion from both the event and the live communication to determine whether to perform a notification on said electronic device (Col 3 Line 52 – Col 4 Line 2).

With respect to claim 18, Cannon teaches the method of claim 17 wherein the at least one criterion of the live communication is selected from the group consisting of the time of the incoming live communication, the caller identification of the incoming live communication, the push-to-talk identification values, the instant message handle name and the Internet Protocol (IP) address of the incoming communications (Col 3 Lines 52-57).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon et al. U.S. Patent No. 6,393,272 (hereinafter Cannon) in view of Deluca et al. U.S. Patent Pub 2002/0115429 A1 (hereinafter Deluca).

With respect to claim 5, Cannon teaches the device of claim 4. Cannon fails to specifically mention said microcomputer is operable to execute said voicemail application and said electronic device includes a storage device for storing said communication when said communication is directed to said voicemail application.

In the same field of endeavor, Deluca teaches a similar device wherein said microcomputer is operable to execute said voicemail application and said electronic device includes a storage device for storing said communication when said communication is directed to said voicemail application (paragraph 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the voicemail locally for quicker access to the voicemail.

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7. Claims 7&15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon et al. U.S. Patent No. 6,393,272 (hereinafter Cannon) in view of Bhogal et al. U.S. Patent Pub 2004/0203643 A1 (hereinafter Bhogal).

With respect to claims 7&15, Cannon teaches the device and method of claims 1 and 10 respectively. Cannon fails to specifically mention the live communication is an instant text message.

In the same field of endeavor, Bhogal teaches a similar device and method wherein said live communication is an instant text message (paragraph 23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the option of the live communication being an instant text message so that the device could communicate with the multitude of instant text messaging applications and devices available.

8. Claims 8&16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon et al. U.S. Patent No. 6,393,272 (hereinafter Cannon) in view of Graefen U.S. Patent Pub 2004/0082317 A1.

With respect to claims 8&16, Cannon teaches the device and method of claims 1&10 respectively. Cannon fails to specifically mention said event is an appointment in a calendar application stored in said device.

In the same field of endeavor, Graefen teaches a similar device and method wherein said event is an appointment in a calendar application stored in said device (paragraph 46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow said event to be an appointment in a calendar application so the calendar can facilitate response to incoming calls as taught by Graefen (paragraph 46) and the user doesn't have to manually set the phone to meeting mode or silent mode.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emeka D. Iwuchukwu whose telephone number is (571) 272-5512. The examiner can normally be reached on M-F (8.30AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EDI

**OVIDIO ESCALANTE
PATENT EXAMINER**

Ovidio Escalante